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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 150818742-6210-02]**

**RIN 0648-XE623**

**Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the of the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; opening.

**SUMMARY:** NMFS is opening directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary to fully use the 2016 groundfish total allowable catch specified for the species comprising the deep-water species category in the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), May 15, 2016, through 1200 hours, A.l.t., July 1, 2016.

Comments must be received at the following address no later than 4:30 p.m., A.l.t.,  
*[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2015-0110, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2015-*

0110, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS prohibited directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the GOA, effective 1200 hours, A.l.t., April 30, 2016 (May 4, 2016, 81 FR 26745) under § 679.21(d)(6)(i). That action was necessary because the second

seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA was reached. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.

Regulations at § 679.21(d)(4)(iii)(D) require NMFS to combine management of the available trawl halibut PSC limits in the second season (April 1 through July 1) deep-water and shallow-water species fishery categories for use in either fishery from May 15 through June 30 of each year. The combined second seasonal apportionment of Pacific halibut PSC is 810 mt. This includes the deep-water and shallow water Pacific halibut PSC limits carried forward from the first seasonal apportionments (January 20 through April 1). The deep-water and shallow-water Pacific halibut PSC apportionments were established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016).

As of May 10, 2016, NMFS has determined that there is approximately 135 metric tons of the trawl Pacific halibut PSC limit remaining in the deep-water fishery and shallow-water fishery seasonal apportionments. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2016 groundfish total allowable catch available in the deep-water species fishery category NMFS is terminating the previous closure and is reopening directed fishing for species comprising the deep-water fishery category in the GOA. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) the current harvest of Pacific halibut PSC in the deep-water species trawl fishery the of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

## **Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for species comprising the deep-water species fishery category in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 10, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the trawl deep-water species fishery in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until *[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

This action is required by § 679.21 and § 679.25 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 11, 2016.

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Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2016-11492 Filed: 5/13/2016 8:45 am; Publication Date: 5/16/2016]